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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/697,372	10/29/2003	Jim Galer	DON02 P-1121	7898

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EXAMINER

STRIMBU, GREGORY J

ART UNIT	PAPER NUMBER
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3634

DATE MAILED: 10/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

10/697,372

Applicant(s)

GALER, JIM

Examiner

Gregory J. Strimbu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-43 is/are pending in the application.
- 4a) Of the above claim(s) 20-31 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-19 and 32-43 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 October 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>6/16/04</u> . | 6) <input type="checkbox"/> Other: ____. |

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-19 and 32-43, drawn to a window assembly including a carrier, classified in class 049, subclass 413.
- II. Claims 20-31, drawn to a window assembly including covers, classified in class 049, subclass 380.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention II has separate utility such as use with a window assembly that includes a sliding window pane which does not include a carrier. See MPEP § 806.05(d).

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

This application contains claims directed to the following patentably distinct species of the claimed invention:

Group III Figures 15-21

Group IV Figures 16-35.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 1-5, 10-16, 18 and 19 are generic.

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Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

During a telephone conversation with Catherine S. Collins on September 30, 2005 a provisional election was made without traverse to prosecute the invention of Groups I and IV, claims 1-19 and 32-43. Affirmation of this election must be made by applicant in replying to this Office action. Claims 20-31 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Drawings

The drawings are objected to because the applicant has failed to use the proper cross-sectional shading when showing the invention in cross section. For example, see figure 3 which is cross sectional view of the invention, however, no cross sectional shading is included therein in accordance with MPEP 608.02. Figure 16 is objected to because the lead line at the left hand side of the window slider 96 does not have a corresponding reference character. Finally, the drawings are objected to because they fail to show the section line XIV-XIV. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "294b" has been used to designate both ends of the cable 294 in figure 23. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The disclosure is objected to because of the following informalities: it is unclear if the applicant is claiming priority to only U.S. provisional application no. 60/422,421 or is claiming priority to both U.S. provisional application no. 60/422,421 and co-pending application no. 10/113,056. Additionally, the status of co-pending application no. 10/113,056 needs to be updated. Finally, the applicant should avoid referring to the same element of the invention with different language. For example, the applicant should avoid referring to element 230 as a rail on line 14 of page 14 and as track on line 17 of page 14.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

Claims 4-9, 12, 13-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Recitations such as "said socket" on line 4 of claim 4 render the claims indefinite because it is unclear to which one of the plurality of sockets set forth above the applicant is referring. Recitations such as "a pair of cable guides" on lines 1-2 of claim 12 render the claims indefinite because it is unclear if the pair of cable guides includes the at least one cable guide set forth above for a total of two cable guide or if the pair of cable guides are in addition to the at least one cable guide set forth above for a total of three cable guides. Recitations such as "said cable guide" on line 2 of claim 13 render the claims indefinite because they lack antecedent basis.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7, 10-18, 32-37 and 39-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ralston et al. in view of Gipson. Ralston et al. discloses a vehicular rear window assembly 10 comprising: a first fixed pane 12; a second fixed pane 13; a sliding pane 11; a drive assembly 70 for moving said sliding pane, said drive

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assembly including a selectively driven cable 76, 77 having a first enlarged end 78 and a second enlarged end 78; and a support system comprising: an upper horizontal member 15, a lower horizontal member 16, said fixed panes mounted between said upper and lower horizontal members; and a carrier 19 supporting said sliding pane for horizontal movement between open and closed positions, said carrier including an elongate body having an upwardly facing channel 21 for receiving a portion of said sliding pane therein, said body further including sockets 20 for receiving and latching said ends of said cable to said carrier wherein said cable moves said sliding pane when said cable is driven, the lower horizontal member comprises a lower track, each of the sockets includes a receiving opening (not numbered, but shown in figure 6 on the upper surface of the carrier) and an elongate slot (not numbered, but shown in figure 6 at the distal ends of the carrier), a viewing opening 98, a cover 25, having two cable guides (not numbered, but comprising the hole for the cable sheath and the hole for the cable), the cover includes a cooperating structure 26 and the track includes a cooperating structure 27. Ralston et al. is silent concerning spaced apart vertical members.

However, Gipson discloses a rear window assembly comprising a pair of spaced apart vertical members 105, 106, said vertical members interconnecting an upper horizontal member 101 and a lower horizontal member 102, said vertical members defining an opening (not numbered, but shown in figure 1).

It would have been obvious to one of ordinary skill in the art to provide Ralston et al. with vertical members, as taught by Gipson, to increase the strength of the assembly.

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Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ralston et al. in view of Gipson as applied to claims 1-7, 10-18, 32-37 and 39-43 above, and further in view of So et al. So et al. discloses a means for attaching a cable 51 to a socket 62 wherein the socket 62 includes first and second viewing holes (not numbered, but comprising the open ends of the socket 62 as shown in figure 4).

It would have been obvious to one of ordinary skill in the art to provide Ralston et al., as modified above, with a second hole, as taught by So et al., to enable water and debris to exit the socket.

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ralston et al. in view of Gipson, as applied to claims 1-7, 10-18, 32-37 and 39-43 above, and further in view of Gillen et al. Gillen et al. discloses a window assembly comprising channel shaped member 16 at least partially encapsulated in a polymeric material 28.

It would have been obvious to one of ordinary skill in the art to encapsulate the channel of Ralston et al., as modified above, with a polymeric gasket 28, as taught by Gillen et al., to provide a seal between the outer perimeter of the window assembly and the vehicle.

Claim 38 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ralston et al. in view of Gipson as applied to claims 1-7, 10-18, 32-37 and 39-43 above, and further in view of Staser et al. Staser et al. discloses a cable 20 having an enlarged cylindrical end 76.

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It would have been obvious to one of ordinary skill in the art to provide Ralston et al., as modified above, with cylindrical ends, as taught by Staser et al., to increase the amount of surface area of the end that is engaged with the carrier.

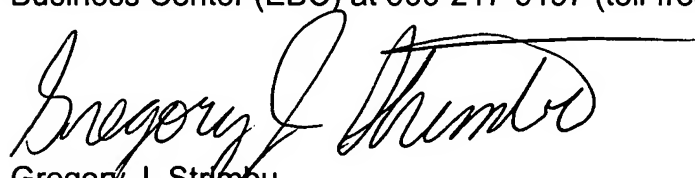
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Schupp is cited for disclosing a key-hole opening for connecting to a cable. Koneval et al. '788 and Purcell are cited for disclosing a cable actuated sliding window for a vehicle.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory J. Strimbu whose telephone number is 571-272-6836. The examiner can normally be reached on Monday through Friday 8:00 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on 571-272-6777. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Gregory J. Strimbu", with a long horizontal flourish extending to the right.

Gregory J. Strimbu
Primary Examiner
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September 30, 2005